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In re Application of
FRAZER, Ian et al.
Application No.: 09/868,009
PCT No.: PCT/AU99/01108
Int. Filing Date: 13 December 1999
Priority Date: 11 December 1998
Attorney's Docket No.: 10905.0003.PCUS00
For: TREATMENT OF PAPILLOMAVIRUS:
INFECTIONS

DECISION ON

REQUEST

UNDER 37 CFR 1.42

This decision is in response to applicants' response to Notification of Missing Requirements, filed 04 June 2002. A review of the Declaration reveals an indication that joint inventor Jian Zhou is deceased. Applicants' submission has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 13 December 1999, applicants filed international application PCT/AU99/01108. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 22 June 2000. On 24 May 2000, a demand for international preliminary examination was filed within nineteen months from the priority date. As such, the deadline for entry into the national stage in the United States was 11 June 2001.

On 11 June 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 04 February 2002, USPTO mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a)-(b) was required.

On 04 June 2002, applicants filed a declaration.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions

applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

In this case, Xiao Yi Sun signed the declaration as legal representative of the deceased inventor. However, the declaration must list the citizenship, residence and postal address for both Xiao Yi Sun and inventor Zhou. See 37 CFR 1.497 and 37 CFR 1.63. The declaration lists only the information for Xiao Yi Sun. The declaration must also list the information of the deceased inventor.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Applicant is required to submit a declaration in compliance with 37 CFR 1.497 and 1.42 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. **THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.** Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Office of PCT Legal Administration.



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